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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2015–0010]

[T.D. TTB–142; Ref: Notice No. 154]

RIN: 1513–AC19

Establishment of the Champlain Valley of New York Viticultural Area

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) establishes the approximately 500-square mile “Champlain Valley of New York” viticultural area in Clinton and Essex Counties, New York. The Champlain Valley of New York viticultural area is not located within any other established viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

DATES: This final rule is effective [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Kate M. Bresnahan, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; phone 202–453–1039, ext. 151.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120-01, dated December 10, 2013 (superseding Treasury Order 120-01, dated January 24, 2003), to the TTB Administrator to perform the functions and duties in the administration and enforcement of these laws.

Part 4 of the TTB regulations (27 CFR part 4) authorizes TTB to establish definitive viticultural areas and regulate the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission to TTB of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features, as described in part 9 of the regulations, and a name and a delineated boundary, as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to the wine's geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and provides that any interested party may petition TTB to establish a grape-growing region as an AVA. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for the establishment or modification of AVAs. Petitions to establish an AVA must include the following:

- Evidence that the area within the proposed AVA boundary is nationally or locally known by the viticultural area name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed AVA;

- A narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed AVA distinctive and distinguish it from adjacent areas outside the proposed AVA boundary;
- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed AVA, with the boundary of the proposed AVA clearly drawn thereon; and
- A detailed narrative description of the proposed AVA boundary based on USGS map markings.

Champlain Valley of New York Petition

TTB received a petition from Colin Read, owner of North Star Vineyard, on behalf of the Lake Champlain Grape Growers Association, proposing the establishment of the “Champlain Valley of New York” AVA in Clinton and Essex Counties, New York. The proposed Champlain Valley of New York AVA covers approximately 500 square miles and is not located within any other AVA. There are 11 commercial vineyards covering a total of approximately 15.47 acres within the proposed AVA, as well as 6 wineries.

According to the petition, the distinguishing feature of the proposed Champlain Valley of New York AVA is its short growing season, which is conducive to growing cold-hardy North American hybrid grape varieties (such as Frontenac, La Crescent, and Marquette) but not the *Vitis vinifera* grapes that are grown in the surrounding areas. The petition provides information comparing the length of the growing season within the AVA to those of the surrounding areas.

In South Hero, Vermont, to the east of the proposed AVA, the growing season is four weeks longer than that in the proposed AVA. In Whitehall, New York, to the south of the proposed AVA, the growing season is two weeks longer than that in the proposed AVA. The growing season in the Adirondack Mountains, to the west of the proposed AVA, is too short for commercial grape growth. The proposed AVA also has a later last-frost date and an earlier first-frost date than the areas to its east and south. TTB notes that the area directly north of the proposed AVA is in Canada and, therefore, is not eligible to be part of an AVA.

Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 154 in the **Federal Register** on July 2, 2015 (80 FR 38147), proposing to establish the Champlain Valley of New York AVA. In the notice, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed AVA. For a detailed description of such evidence, see Notice No. 154. In Notice No. 154, TTB solicited comments on the accuracy of the name, boundary, and other required information submitted in support of the petition. The comment period closed on August 31, 2015. TTB received no comments in response to Notice No. 154.

TTB Determination

After careful review of the petition, TTB finds that the evidence provided by the petitioner supports the establishment of the Champlain Valley of New York AVA. Accordingly, under the authority of the FAA Act, section 1111(d) of the Homeland Security Act of 2002, and parts 4 and 9 of the TTB regulations, TTB establishes the “Champlain Valley of New York” AVA in Clinton and Essex

Counties, New York, effective 30 days from the publication date of this document.

Boundary Description

See the narrative description of the boundary of the Champlain Valley of New York AVA in the regulatory text published at the end of this final rule.

Maps

The petitioner provided the required maps, and they are listed below in the regulatory text.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be labeled with an AVA name or with a brand name that includes an AVA name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has a brand name containing an AVA name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

With the establishment of this AVA, its name, “Champlain Valley of New York,” will be recognized as a name of viticultural significance under § 4.39(i)(3) of the TTB regulations (27 CFR 4.39(i)(3)). The text of the regulation clarifies this point. Consequently, wine bottlers using the name “Champlain Valley of New York” in a brand name, including a trademark, or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use the AVA name as an appellation of origin. TTB is not designating “Champlain Valley,” standing alone, as a term of viticultural significance because the term “Champlain Valley” also applies to the parts of the valley located in Vermont and Canada. The petitioner proposed the name “Champlain Valley of New York” to more accurately describe the location of the AVA. The establishment of the Champlain Valley of New York AVA will not affect any existing AVA. The establishment of the Champlain Valley of New York AVA will allow vintners to use “Champlain Valley of New York” as an appellation of origin for wines made primarily from grapes grown within the Champlain Valley of New York AVA if the wines meet the eligibility requirements for the appellation.

Regulatory Flexibility Act

TTB certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of an AVA name would be the result of a proprietor’s efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

It has been determined that this final rule is not a significant regulatory action as defined by Executive Order 12866 of September 30, 1993. Therefore, no regulatory assessment is required.

Drafting Information

Kate M. Bresnahan of the Regulations and Rulings Division drafted this final rule.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

For the reasons discussed in the preamble, TTB amends title 27, chapter I, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

2. Subpart C is amended by adding § 9.258 to read as follows:

§ 9.258 Champlain Valley of New York.

(a) Name. The name of the viticultural area described in this section is “Champlain Valley of New York”. For purposes of part 4 of this chapter, “Champlain Valley of New York” is a term of viticultural significance.

(b) Approved maps. The two United States Geological Survey (USGS) 1:100,000 scale topographic maps used to determine the boundary of the Champlain Valley of New York viticultural area are titled:

(1) Lake Champlain, N.Y.; VT.; N.H.; U.S.; CAN., 1962; revised (U.S. area) 1972; and

(2) Glens Falls, N.Y.; VT.; N.H., 1956; revised 1972.

(c) Boundary. The Champlain Valley of New York viticultural area is located in Clinton and Essex Counties, New York. The boundary of the Champlain Valley of New York viticultural area is as described below:

(1) The beginning point is found on the Lake Champlain map at the intersection of the western shore of Lake Champlain and the U.S.–Canada border, just north of the town of Rouses Point.

(2) From the beginning point, proceed south along the western shore of Lake Champlain approximately 109.4 miles, crossing onto the Glens Falls map, to a road marked on the map as State Route 73 (now known as State Route 74) and known locally as Fort Ti Road, at the Fort Ticonderoga–Larrabees Point Ferry landing; then

(3) Proceed west along State Route 73 (State Route 74/Fort Ti Road) approximately 1.6 miles to State Route 22; then

(4) Proceed north along State Route 22 approximately 21 miles, crossing onto the Lake Champlain map and passing through the town of Port Henry, to an unnamed light-duty road known locally as County Road 44 (Stevenson Road); then

(5) Proceed north along County Road 44 (Stevenson Road) approximately 5.8 miles to a railroad track; then

(6) Proceed northerly along the railroad track approximately 1.6 miles to State Route 9N, west of the town of Westport; then

(7) Proceed westerly along State Route 9N approximately 4.1 miles to Interstate 87; then

(8) Proceed north along Interstate 87 approximately 21 miles to the Ausable River, southwest of the town of Keeseville; then

(9) Proceed west (upstream) along the Ausable River approximately 6 miles to a bridge connecting two unnamed light-duty roads known locally as Burke Road and Lower Road in the town of Clintonville, and proceed north along the bridge to Lower Road; then

(10) Proceed west along Lower Road approximately 0.6 mile to State Route 9N; then

(11) Proceed west along State Route 9N approximately 0.8 mile to an unnamed light-duty road known locally as County Route 39 (Clintonville Road); then

(12) Proceed north along County Route 39 (Clintonville Road) approximately 1.5 miles to the second crossing of the Little Ausable River, west of Cook Mountain; then

(13) Proceed northeast along the Little Ausable River approximately 3.5 miles to the confluence of the river with Furnace Brook, near the town of Harkness; then

(14) Proceed west along Furnace Brook approximately 0.17 mile to an unnamed light-duty road known locally as County Route 40 (Calkins Road); then

(15) Proceed north along County Route 40 (Calkins Road) approximately 5.8 miles to an unnamed light-duty road known locally as County Route 35 (Peasleeville Road), south of an unnamed creek known locally as Arnold Brook; then

(16) Proceed west along County Route 35 (Peasleeville Road) approximately 0.1 mile to an unnamed light-duty road known locally as Connors Road; then

(17) Proceed north along Connors Road approximately 2.1 miles, crossing the Salmon River, to an unnamed light-duty road known locally as County Route 33 (Norrisville Road); then

(18) Proceed west along County Route 33 (Norrisville Road) approximately 1.2 miles to an unnamed light-duty road known locally as Shingle Street; then

(19) Proceed north along Shingle Street approximately 4 miles to an unnamed light-duty road known locally as County Route 31 (Rabideau Street); then

(20) Proceed west along County Route 31 (Rabideau Street) approximately 0.4 mile to an unnamed light-duty road known locally as Goddeau Street; then

(21) Proceed north along Goddeau Street approximately 0.9 mile, crossing the Saranac River, to State Route 3 just east of the town of Cadyville; then

(22) Proceed east along State Route 3 approximately 0.5 mile to an unnamed light-duty road known locally as Akey Road; then

(23) Proceed north on Akey Road approximately 0.2 mile to State Route 374; then

(24) Proceed east along State Route 374 approximately 3.6 miles to State Route 190, also known locally as Military Turnpike; then

(25) Proceed northwest along State Route 190 (Military Turnpike) approximately 15.2 miles to an unnamed light-duty road just east of Park Brook known locally as County Route 12 (Alder Bend Road), northwest of Miner Lake State Park; then

(26) Proceed north along County Route 12 (Alder Bend Road) approximately 3 miles to U.S. Highway 11; then

(27) Proceed west along U.S. Highway 11 approximately 1.7 miles to an unnamed light-duty road known locally as County Route 10 (Cannon Corners Road); then

(28) Proceed north along County Route 10 (Cannon Corners Road) approximately 6 miles to the U.S.–Canada border; then

(29) Proceed east along the U.S.–Canada border approximately 19.8 miles, returning to the beginning point.

Signed: June 27, 2016.

John J. Manfreda,

Administrator.

Approved: August 8, 2016.

Timothy E. Skud,

Deputy Assistant Secretary
(Tax, Trade, and Tariff Policy).

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